

181882N THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ORANGEBURG DIVISION

Danyell Woodrow Sandlin,	)	
	)	C/A No. 5:18-1882-TMC
Plaintiff,	)	
	)	
v.	)	<b>ORDER</b>
	)	
Commissioner of Social	)	
Security Administration,	)	
	)	
Defendant.	)	

On July 10, 2018, Plaintiff Danyell Woodrow Sandlin filed this action pursuant to 42 U.S.C. § 405(g), seeking judicial review of a final decision of the Commissioner of Social Security (“Commissioner”) denying his claim for benefits under the Social Security Act. (ECF No. 1). This matter is before the court for review of the Report and Recommendation (“Report”) of the United States Magistrate Judge, made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(a), D.S.C. (ECF No. 49). In her Report, the magistrate judge recommends that this action be dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *Id.* at 3.

The magistrate judge sets forth in detail the procedural history of this case in her Report. *Id.* at 1-3. Briefly, Plaintiff’s brief in support of his appeal was originally due January 22, 2018. (ECF No. 23). However, after Plaintiff informed the court on January 7, 2019, that he had not received a copy of the answer and administrative record (ECF No. 25), Plaintiff filed a motion for an extension (ECF No. 26), which the magistrate judge granted extending the deadline to March 1, 2019 (ECF No. 27). Plaintiff did not file his brief by March 1st. Rather, on March 4, 2019, Plaintiff filed a motion for the appointment of counsel. (ECF No. 35). The magistrate declined to appoint counsel, but gave Plaintiff until April 4, 2019, to file his brief. (ECF No.

36). Plaintiff again missed the deadline, and, instead of filing his brief, he filed another motion for an extension stating that he was attempting to obtain counsel. (ECF No. 35). On April 15, 2019, the magistrate judge granted Plaintiff an extension until May 13, 2019, to file his brief, and she advised Plaintiff that this was the final extension. (ECF No. 44).

After Plaintiff did not file his brief, on May 17, 2019, the magistrate judge entered her Report recommending that the court dismiss this action without prejudice pursuant to Rule 41(b) based on Plaintiff's failure to prosecute. (ECF No. 49 at 3). The magistrate judge also advised Plaintiff of his right to file objections to the Report. *Id.* at 4. Plaintiff then filed a motion for an extension of time within which to file objections stating that he trying to obtain counsel. (ECF No. 52). The undersigned granted the motion. (ECF No. 53). The court stayed the deadline to file objections and gave Plaintiff until June 27, 2019, to obtain counsel. *Id.* As of today, five months after Plaintiff's brief was originally due, Plaintiff has not filed his brief. Nor has he filed any objections to the Report. Moreover, no attorney has filed an appearance on Plaintiff's behalf.

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

Based on the foregoing, and after a thorough and careful review of the record, the court adopts the Report of the Magistrate Judge (ECF No. 49), which is incorporated herein by reference. Accordingly, this action is **DISMISSED without prejudice** pursuant to Rule 41(b) for failure to prosecute.

**IT IS SO ORDERED.**

s/Timothy M. Cain  
United States District Judge

June 28, 2019  
Anderson, South Carolina

#### **NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.